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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

ACU-128

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name _____Application Number
10/675,459Filed
09/30/2003

First Named Inventor

Richard L. MUELLER, JR.

Art Unit

3736

Examiner

Jonathan M. Foreman

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☒ attorney or agent of record. **20,818**
Registration number _____☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____
Signature**Talivaldis Cepuritis**

Typed or printed name

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Telephone number

June 21, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Richard L. MUELLER, JR.)	
Serial No.	10/675,459)	
Filed:	September 30, 2003)	Group Art Unit 3736
For:	BIOPSY DEVICE WITH VIEWING ASSEMBLY)	<u>ACU-128</u>
Examiner:	Jonathan M. Foreman)	

REASONS FOR REQUEST FOR REVIEW

MAIL STOP AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

1. The claims under consideration stand rejected under 35 U.S.C. §102(b) as anticipated by Corvi *et al.* The claims under consideration expressly require cooperation between the introducer sheath and the cutter tube for severing the tissue sample by relative movement therebetween. Corvi *et al.*, do not show that. Instead, Corvi *et al.*, expressly teach a separate cutting mechanism 18 that is carried by the catheter 12. (Page 3, ¶ [0030]). Even if Corvi *et al.* is deemed to be an introducer as contended by the Examiner, catheter 12 does not perform a cutting function.


2. Inner cutter 22 in Corvi *et al.* is not a cutter tube as claimed. In FIG. 15 of Corvi *et al.* imaging device 264 is integral with inner cutter 200 and is not shown at least partially extending axially through the cutter tube as contended by the Examiner. Accordingly, the claim limitation that an endoscope assembly extends axially through the cutter tube is not shown by Corvi *et al.*

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3. Item 264 of Corvi *et al.*, characterized as "material imaging device" and shown in FIG. 15, is not an enabling disclosure for the claimed endoscope assembly.

Respectfully submitted,

Dated: June 21, 2007

By 
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